

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

KURTIS HELMAN,

Plaintff,

VS.

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

CASE NO. 1:10-CV-00942

## OPINION & ORDER

[Resolving Doc. Nos. [19](#), [20](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Plaintiff Kurts Helman challenges the final decision of the Commissioner of Social Security, denying the Plaintiff's claim for Supplemental Security Income under Title XVI of the Social Security Act, [42 U.S.C. § 1381 et seq.](#) [[Doc. 1](#).] Plaintiff Helman asserts that the decision of the Administrative Law Judge ("ALJ") is contrary to law and fact and that the findings are not supported by substantial evidence. [[Id.](#)]

This matter was referred to Magistrate Judge McHargh pursuant to Local Rule 72.2. On December 29, 2010, the parties filed a joint motion for entry of judgment under [42 U.S.C. § 405\(g\)](#). [[Doc. 19](#).] The parties request a judgment reversing the ALJ's decision and remanding for a definition of the low-stress tasks which the Plaintiff is unable to perform and to allow the ALJ to obtain a vocational expert testimony to determine what effect Plaintiffs' non-exertional limitations have on his ability to perform work. [[Id.](#)] On December 30, 2010, Magistrate Judge McHargh issued a Report and Recommendation that recommended this Court reverse the final decision of the

Case No. 1:10-CV-00942  
Gwin, J.

Commissioner and remand the case so the grounds of decision may be more fully articulated. [\[Doc. 20.\]](#)

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a Report and Recommendation within fourteen days of service. [Id.](#); [Fed. R. Civ. P. 72\(b\)\(2\)](#). Failure to object within this time waives a party's right to appeal the district court's judgment. [Thomas v. Arn, 474 U.S. 140, 145 \(1985\)](#); [United States v. Walters, 638 F.2d 947, 949-50 \(6th Cir. 1981\)](#). Absent objection, a district court may adopt the magistrate judge's report without review. *See Thomas, 474 U.S. at 149.*

In this case, neither party has objected to the Magistrate Judge McHargh's recommendation; indeed, consistent with the recommendation, the parties specifically request that the decision of the ALJ be reversed and that the case be remanded. Accordingly, the Court **ADOPTS** in whole Magistrate Judge McHargh's Report and Recommendation and **GRANTS** the parties stipulated motion for judgment. The Court **REVERSES** the decision of the ALJ and **REMANDS** for a definition of the low-stress tasks which the Plaintiff is unable to perform and to allow the ALJ to obtain a vocational expert testimony to determine what effect Plaintiffs' non-exertional limitations have on his ability to perform work.

IT IS SO ORDERED.

Dated: January 19, 2011

*s/ James S. Gwin*  
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JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE